

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CAREFREE PARK CORPORATION, AMIN
NABHAN and JAMILE NABHAN,

Plaintiffs,

v.

ADIB NABHAN,

Defendant.

Civil Action No. 2003-CV-12426 RCL

AFFIDAVIT OF DAVID J. WUDYKA

The undersigned, David J. Wudyka, of Wrentham, Massachusetts, being duly sworn on oath, deposes and says:

1. I have been a Human Resources consultant for more than seventeen years with a specialty in compensation. I was asked to provide an opinion in the above-captioned matter concerning the appropriate level of compensation for the position held by Adib Nabhan at Fun Depot, Inc. in Lake Worth, Florida. I submit this affidavit to supplement and expand upon the expert report that I submitted dated March 17, 2005.

2. The "Market Pricing" method that I used to prepare my opinion is a process of using industry pay survey data to determine the appropriate pay level for a given position or positions. It is an accepted and well-established method used by Human Resources professionals, and is recognized by a leading Human Resources association, World At Work (the former "American Compensation Association"), as a means for determining the appropriate levels of compensation for a wide variety of positions.

3. The article attached hereto as Exhibit A, entitled “Using Survey Statistics to Determine Compensation,” is from a publication put out by World at Work and notes that “[m]arket-based job evaluation [i.e., the Market Pricing method] has become increasingly popular, as many employers look first to the external market to establish and benchmark their own compensation levels.” It further notes that “market pricing can be defined as a technique for creating a job-worth hierarchy based on the ‘going rate’ for benchmark jobs in the labor market(s) relevant to the organization.”

4. The article attached hereto as Exhibit B, entitled “How JC Penney Uses Salary Surveys for Market Pricing Jobs,” similarly demonstrates that market pricing is relied on by employers in setting compensation levels.

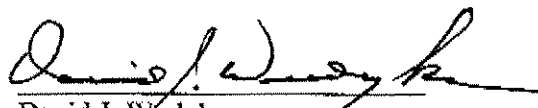
5. The article attached hereto as Exhibit C, entitled “Market Pricing 101: The Science and the Art,” also published by World at Work, explains in detail how the process works.

6. The entertainment industry compensation survey that I relied upon in pricing Mr. Adib Nabhan’s position at Fun Depot, Inc. is a 42-page study covering pay and benefits in 48 separate organizations. It was conducted by Industry Insights of Columbus, Ohio in accordance with the standards prescribed by compensation professionals and practitioners and was done on behalf of the “International Association of Family Entertainment Centers” (IAFEC). The survey is a recognized source that can be confidently relied on by Human Resources professionals to perform the type of market pricing analysis that I prepared.

7. World At Work also conducts an annual “budgets” survey. Compensation practitioners “age” survey data by the average merit budget increase in effect in that year for all industries or for a specific industry. I used the overall average of 4% which has been a relative

7. World At Work also conducts an annual "budgets" survey. Compensation practitioners "age" survey data by the average merit budget increase in effect in that year for all industries or for a specific industry. I used the overall average of 4% which has been a relative constant for a number of years. As inflation stays low, this number typically stays low, although the two concepts are not directly related. They often "parallel" each other. This budgets survey is also relied upon by Human Resources professionals and can be obtained from the World At Work website (www.worldatwork.org).

8. The "Salary.com" data that I utilized was simply another means of corroborating the data from the IAFEC survey, which was the primary source of pay data that I utilized. The Salary.com website is often used as a reference source by Human Resources professionals.


David J. Wudyka

January 27, 2006

I hereby certify that a true copy of the
above document was served upon the
attorney of record for each other party
by mail ~~hand~~ on 1/27/06

on
email

